

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CLYDE R. DAVENPORT, et al.,

Plaintiffs,

v.

WASHINGTON MUTUAL BANK, FA,

Defendant.

Case No. 16-cv-01343-EMC

ORDER TO SHOW CAUSE

Docket Nos. 6, 15

Plaintiffs, proceeding pro se, have filed a foreclosure-related action against Defendant. Defendant has moved to dismiss Plaintiffs' complaint. The original motion was served on Plaintiffs (via FedEx) on April 14, 2016. *See* Docket No. 8 (certificate of service). Subsequently, Defendant re-served the motion on Plaintiffs (via FedEx) on April 19, 2016. (The motion was re-noticed as the case had been reassigned from Judge Spero of this District to the undersigned. *See* Docket No. 13 (reassignment order); Docket No. 15-1 (certificate of service).) A hearing on Defendant's motion is currently scheduled for May 26, 2016.

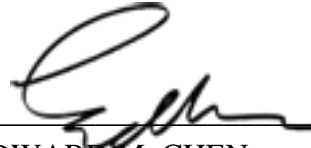
Although Plaintiffs have been on notice of Defendant's motion since mid-April, they have yet to file a written opposition to the motion. *See* Civ. L.R. 7-3(a) (providing that an opposition to a motion "must be filed and served not more than 14 days after the motion was filed"). While there are indications that Plaintiffs wish to prosecute this case – *e.g.*, they filed a motion to compel discovery in late April and then, in early May, filed a request for the Court to approve the recording of a notice of lis pendens, *see* Docket Nos. 17, 20 (Plaintiffs' filings), that does not excuse their failure to file an opposition to Defendant's motion to dismiss.

Accordingly, the Court hereby **VACATES** the May 26 hearing on Defendant's motion to dismiss. Plaintiffs are hereby ordered to show cause as to why Defendant's motion should not be

1 granted based on Plaintiffs' failure to oppose and/or prosecute. In their response, Plaintiffs shall
2 also address the substantive arguments raised in Defendant's motion. **Plaintiffs' response to this**
3 **order to show cause shall be filed and served by June 2, 2016. Plaintiffs are forewarned that**
4 **a failure to file a timely response shall result in a dismissal of this case with prejudice.**

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6 **IT IS SO ORDERED.**

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8 Dated: May 12, 2016

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12 EDWARD M. CHEN
13 United States District Judge
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